

**MINUTES - REGULAR MEETING
BOONE TOWN COUNCIL JULY
20, 2006**

The regular meeting of the Boone Town Council was called to order at 6:30 p.m., Thursday, July 20, 2006 in the Council Chambers, 1500 Blowing Rock Road. Mayor Loretta Clawson presided. Council members present were Mayor Pro-Tem Lynne Mason, Rennie Brantz, Janet Pepin and Dempsey Wilcox. Town Attorney Sam Furguele was also present. Staff present were Town Manager Greg Young; Town Clerk Freida Van Allen; Police Chief Bill Post; Public Works Director Blake Brown; Assistant to the Manager Jim Byrne; Senior Planner Jane Shook; Building Inspector Todd Miller; Public Utilities Director Rick Miller; Fire Chief Reggie Hassler and Finance Director Amy Davis.

TENTATIVE AGENDA ADOPTION

Town Manager Greg Young presented the following changes to the agenda:

- Deletion of Item 7.E. - Frank Bolick Water Request.
- Addition of Item 7.G. - Laura W. Shrake Sewer Request.
- Addition to Closed Session - Property Acquisition and Legal Advice regarding open meeting law (NCGS 143-318.11a)3)5).

On a motion by Council member Brantz, seconded by Council member Wilcox, Council moved to adopt the agenda as amended.

VOTE: Aye-All
Nay-None

CONSENT AGENDA ADOPTION

On a motion by Council member Wilcox, seconded by Council member Brantz, Council moved to adopt the following consent agenda items:

- Minutes - June 1, 2006, Special Meeting.
- June 13, 2006 - Special Meeting.
- June 15, 2006 - Regular Meeting.
- Adoption of Resolution - Watauga County Solid Waste Management Plan.

TOWN OF BOONE

**RESOLUTION TO APPROVE THE WATAUGA COUNTY SOLID WASTE
MANAGEMENT PLAN 2006 UPDATE**

WHEREAS, better planning for solid waste will help protect public health and the environment, provide for an improved solid waste management system, better utilize our natural resources, control the cost of solid waste management; and,

WHEREAS, NC General Statute 130A-309.08A(b) requires each unit of local government, either individually or in a corporation with other units of local government, to develop a 10-year comprehensive solid waste management plan, and to update the plan at least every three years; and,

WHEREAS, The Town of Boone was properly involved in the process of developing the update;

NOW, THEREFORE, BE IT RESOLVED, that the Boone Town Council hereby approves the Watauga County Solid Waste Management Plan 2006 Update.

Adopted by the Boone Town Council during regular session on this the 20th day of July, 2006.

Mayor

ATTEST:

Deputy Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 1)

Adoption of Resolution - Water & Sewer Infrastructure Reserve Fund.

RESOLUTION ESTABLISHMENT AND
MAINTENANCE OF THE
WATER & SEWER INFRASTRUCTURE RESERVE FUND

WHEREAS, there is a need in the Town of Boone, North Carolina, to plan for water & sewer infrastructure upgrade and replacement; and

WHEREAS, the Town must bear the cost aging infrastructure upgrade and replacement in excess of \$25,000,000;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD THAT:

- Section 1: The Governing Board hereby creates a Capital Reserve Fund for the purpose of providing for the upgrade and replacement of water and sewer infrastructure.
- Section 2: This fund will remain operational until provisions are made to satisfy identified needs.
- Section 3: The Board will appropriate of transfer an amount of no less than \$200,000 per year from the Water and Sewer fund to this fund.
- Section 4: This resolution shall be become effective upon its adoption.

Mayor

ATTEST:

Town Clerk

(RESOLUTION TO BE TYPED IN BOOK 3, PAGE 2)

Adoption of Proclamation - Hospitality House Food and Shelter Program.

VOTE: Aye-All
Nay-None

PRESENTATION OF FINAL RECOMMENDATIONS FROM THE STEEP SLOPE AND MULTI-FAMILY HOUSING TASK

Harvard Ayers, Chairman of the Steep Slope and Multi-Family Task Force, made the following presentation:

First, I want to thank the Boone Town Council for considering the recommendations of the taskforce on steep slope development in Boone's jurisdiction.

The Boone Multi-Family and Steep Slope Development Taskforce has now held 34 meetings over the last 15 months to consider our recommendations for multi-family and steep slope development for Boone's jurisdiction. We have heard presentations from experts in the field of geology, land-slide potential, economics, and engineering, as well as from the City Planner of Asheville, NC. We have made one-on-one contacts with many other jurisdictions across the country to find out how they have dealt with our assigned charges.

Our taskforce is composed of 12 individuals including two Council members, two realtors, an architect, an ASU student, a retired staff person of ASU, and several ASU faculty members including Loren Raymond, geologist. I would like at this time to ask taskforce members to stand. This group has done yeoman service with meetings averaging 10 of the 13 members on any given night. Boone staff members, Brenda Henson and John Spear as well as Town Attorney Sam Furgiuele. They have provided expert guidance on aspects of our deliberations.

In December, we made our multi-family recommendations, some of which have been acted on by the Council. One of our recommendations that has been implemented is the lifting of the moratorium on multi-family housing of 24 or more units throughout Boone's jurisdiction. That moratorium was lifted on May 29th of this year. A 120 day moratorium on multi-family housing on steep slopes was established after a public hearing on June 13, to allow our taskforce time to complete our recommendations and the time for the Town to notify affected landowners and prepare the necessary Unified Development Ordinance (UDO) language.

The charge given the taskforce by the Council was to "analyze technical, aesthetic, environmental and economic issues relating to the development of steep slopes and multi-family housing," and to, "present the findings to the Town Council..."

In January, we continued our study of steep slope development by looking at steep slope regulations for other communities, including Buncombe County, North Carolina and White County, Georgia, two southern Appalachian Mountain communities that have enacted steep slope regulations over the last several years.

In February, we found that we needed to develop a geologic hazard map to allow the Town to make the most informed decisions possible on steep slope development. This map is available here tonight in the form of a limited quantity of 11x 17 copies and one display-sized copy. It shows colored-coded zones for all the Town's jurisdiction. Red zones are the most restrictive, orange next and green the least.

Over the last two months, the taskforce has been discussing and voting on the recommendations. The majority of the recommendations were approved unanimously. The ones that were not were opposed by one or two taskforce members out of 10 present.

I want to say up front that the recommendations that we are making are not intended to stop development on steep slopes. In order to address health and safety as well as aesthetic concerns, we are recommending that density be limited, requiring minimum lot sizes for each zone as well as maximum total floor area, maximum total land disturbance, and maximum total impervious surface.

The purpose of the recommendations we have developed is to regulate development on steep slopes, defined as any slope of more than 15% in the Town's jurisdiction. The red zone is defined as an area with slopes of greater than 50% and one or more geologic hazard factors. The orange zone is from 15% slope up to the beginning of the red zone 50% and the presence of one or more geologic hazard factors. The green zone is less than 15%. The already regulated flood zone is also indicated on the map.

Our recommendations, if enacted, will reduce densities as just indicated. In order to offset this reduction, we are recommending that the lowest slopes, red, orange, or green, not be regulated for density. Our view is of development being concentrated along the existing major corridors of our community. Along with our multi-family housing recommendations, we are recommending

that density actually be increased in these areas as long as the development accomplishes the goal of a mixed-use community, and will be further accomplished by an overlay district that lays out the specific densities and other qualities of each individual such development.

The lowest slopes that will not be regulated by the proposed densities for the red and orange zones are currently recommended as those areas less than 100 vertical feet above the nearest major valley floor. We were hopeful that a map showing the 100 foot line would be available for tonight's meeting. Since we do not yet have that map, we would appreciate flexibility from the Council in the precise application of this concept. We shall work to see that such a map indicating exactly what would areas would be affected will be available within two weeks of tonight and thus incorporated into the formalized recommendations to be discussed at a proposed public hearing in September.

By mixed-use, we mean a development that has a mix of commercial and residential buildings with such features as commercial on the ground level with residential above in the same buildings, and a mix of single-family and multi-family housing including affordable housing. The commercial establishments would make it possible for residents of this and adjoining developments to be near grocery stores, coffee shops, and perhaps video stores, to name a few.

Mr. Ayers also presented a power point presentation showing the different aspects of steep slope development and gave examples of development in each of the three zones. Dr. Loren Raymond, a member of the Steep Slope and Multi-Family Task Force, presented another power point presentation showing different types of slopes and slope failures around Boone. Council member Spann asked for an example of development 100 feet above the valley floor. Dr. Raymond showed a photograph of the Village at Meadowview with different elevation lines. Council member Mason asked what the average elevation of the valley in Boone is. Dr. Raymond said the elevation is about 3,400 feet on the west end of Town and about 200 feet lower at the Council Chambers' location. Council member Mason questioned what would happen to property split by two different zones. Dr. Raymond answered that no additional regulations would be triggered if building occurs in the green zone; however, if building occurs in the orange zone, a geologist and possibly an engineer may be required in order for any building project to move forward. Council member Spann questioned the cost of a geotechnical or civil engineer. Dr. Raymond said he was unsure of their fees but that fees would probably be site dependent. Council member Pepin asked if all licensed geologists are knowledgeable about the mountain terrain. Dr. Raymond replied that geologists have specialties, such as flooding, slope stability, etc., so, not all geologists are familiar with mountain terrain. Dr. Raymond said he recommended the Town hire a geologist on staff but that recommendation was rejected by the Task Force. Dr. Raymond said the Town must employ or contract with, a geologist to evaluate development plans when needed. Council member Wilcox questioned if every location in the orange zone is a 15% or more slope. Dr. Raymond said yes. Council member Wilcox commented that there are two sets of restrictions being recommended: 1) the restrictions on red-and orange-zone development and 2) restrictions regarding development one hundred feet from the valley floor. Dr. Raymond said that was a correct analysis. Mr. Ayers concluded the presentation by recommending that the Town approve the Task Force recommendations. Council member Brantz asked when the new regulations would take effect. Town Attorney Sam Furguele commented that if Council approves the recommendations a public hearing will be held on September 14th to consider UDO amendments. Town Attorney Furguele commented that the reason for the delay in the public hearing is that all property owners affected by the proposed amendments must be notified regarding the hearing. Council member Pepin suggested video-taping an informational session in order to receive television coverage on the proposed amendments. After little discussion, on a motion by Council member Mason, seconded by Council member Brantz, Council moved to accept the following task force recommendations (with some minor wording changes shown in **bold**) and to schedule two informational meetings before the September 14th public hearing. Those meetings are scheduled for August 31st at 12:00 p.m. and September 6th at 7:00 p.m. Both meetings will be held in the Council Chambers.

Town of Boone Steep Slope Development and Multi-Family Housing Taskforce Final Steep Slope Recommendations

The steep slope recommendations of the Town of Boone Steep Slope Development and Multi-Family Housing Task Force are presented below. It should be noted that these steep slope recommendations are part of an inseparable whole that includes the Multi-Family Housing

recommendations sent to the Council in December. A reduction in density for development on Boone's hillsides must be offset by allowing and encouraging more density on the less steep land in the Town's jurisdiction so as to have a neutral effect on multi-family housing development possibilities as presented to Town Council in December, 2005. This increase in density along existing corridors will best be accomplished by dense mixed-use developments as per the December recommendations.

1. The Town of Boone shall adopt the new Geologic Hazard map prepared by Trigon Engineering for the further regulation of development of steep slopes and floodways in the Town and its Extra Territorial Jurisdiction.
2. Development in the Red and Orange zones shall be regulated as follows:
 - a. Require a site-specific geologic analysis of the portion of the site to be affected by the proposed development plan, paid for by the applicant, and conducted by a North Carolina licensed geologist, to determine whether that plan can be developed on the site without jeopardizing slope stability on the site itself and on properties surrounding the site.
 - b. If the lot is determined to be safe for development but requires remedial measures to ensure slope stability, a North Carolina licensed engineer must develop and present a plan to Development Services that will preserve slope stability during and after the completion of grading and construction for the site as well as for surrounding properties.
 - c. No diversion or channelization of perennial streams is allowed.
 - d. Culverting of perennial streams shall be discouraged, and is allowed only for necessary road crossings.
 - e. To prevent debris flow development and damage to slope stability, the riparian zone of perennial streams must be left in tact, which means that removal of trees, vegetation, soils, or disturbance of soils within this zone is prohibited. The riparian zone shall extend from the edge of the existing stream for 35' from each edge of the stream.
 - f. The areas where trees are removed must fall within the maximum allowable total land disturbance.
 - g. Rooflines may not rise above the nearest adjacent ridgeline.
3. For the purpose of preserving the aesthetic value of the Boone landscape (its viewshed), the Task Force recommends that on slopes of any steepness (i.e., in the Green, Orange, and Red zones) more than 100 feet above the nearest major* valley floor, measured at right angles to the average contour from the drainage bottom or stream, the following restrictions will apply:
 - a. Densities per land area for the Red zone shall be 10% maximum total floor area, 15% maximum total land disturbance, and 8% maximum total impervious surface. The minimum lot size required in the Red zone is two acres.
 - b. Densities per land area for the Orange and Green zones shall be 15% maximum total floor area, 30% maximum total land disturbance, and 15% maximum total impervious surface. The minimum lot size required for Green and Orange zone properties is one acre.
 - c. Below the 100 foot marker, the above density restrictions do not apply.
 - d. The criteria listed above shall be used to develop an overlay district zoning map.

* Major valley floors in Boone include the valleys of Hodges Creek, Boone ("Kraut") Creek, the upper reaches of Laurel Fork between the 105 Bypass and the Tennessee Valley Divide, Winkler Creek, the Middle and East Forks of the South Fork of the New River, the South Fork of the New River, and the streams draining the Perkinsville area.

4. The Town shall employ **and/or contract with** a qualified biologist to identify and locate within the Town and ETJ the environmentally sensitive habitats (e.g. habitat for threatened and endangered species, wetlands, bogs, and micro-climatic zones), which information will be used as a basis for Town restoration and preservation of green space, trails, and parks.
5. Within Red and Orange zones, the Town shall implement design criteria which minimize cuts, fills, and grading, and maximize tree and other vegetation retention. All grading and the siting of structures, access roads and driveways shall conform to the existing topography

of the site.

6. The Town of Boone shall adopt an illustrated guide to structure siting, grading, and site design. The publication will provide visual support for the text of the UDO and should be available both as a stand alone resource for applicants at development services and on the Town's website.
7. The owner or developer must designate a “prime designer” who is a licensed engineer or architect to coordinate all site planning and development activities, including all other engineering design functions performed as a part of the plan submittal, construction review, and final certification. The prime designer is responsible at each step for ensuring that the project was constructed in compliance with the design documents. This prime designer shall be held responsible for coordination of all design functions to meet the requirements of the Unified Development Ordinance.
8. The Town shall ensure that the prime designer and other professionals are held accountable by their licensing boards. The Town shall adopt enforcement measures for negligent professionals including, but not limited to, **excluding** them from certifying analysis or design.
9. The Town shall have the option to employ **and/or contract with** an independent geologist to evaluate plans for development as necessary.
10. The Town shall adopt recommendations from Trigon Engineering’s report dated June 21, 2005 (attached) to the extent that they do not conflict with other recommendations of Task Force.
11. The Town shall modify the UDO to reflect the above requirements.
12. The Town Council shall investigate ideas (such as conservation easements, tax credits, and transfer of development rights) in order to assist the integration of these recommendations with the Town of Boone Comprehensive Plan’s mandate for the Town to promote green space, greenways, trails, bikeways, and a pedestrian friendly atmosphere. Such efforts could also help offset any potential negative economic impact which might be experienced in the short term by certain property owners.
13. The Town shall hold a public hearing on September 14 **at 7:00 p.m. at the Watauga County Courthouse, Courtroom #1** for consideration of these recommendations prior to the September 21 meeting of the Town Council.

VOTE:Aye-All

Nay-None

GREENWAY COMMITTEE APPOINTMENT

On a motion by Council member Pepin, seconded by Council member Brantz, Council moved to appoint Craig R. Scheffler to the Greenway Committee.

VOTE:Aye-All

Nay-None

COMMUNITY APPEARANCE COMMISSION APPOINTMENT

Council accepted the nominations of Yogi Collins and Bob DeCamara to a position on the Community Appearance Commission. On a motion by Council member Spann, seconded by Council member Pepin, Council moved to postpone appointment until Council has time to review the applications more closely.

VOTE:Aye-All

Nay-None

PLANNING COMMISSION APPOINTMENT

There were no applications to consider. Council made a plea to the listening audience for

volunteers to the Planning Commission.

ADOPTION OF ORDINANCE - MINIMUM HOUSING VIOLATION

Town Attorney Sam Furgiuele explained the minimum housing code violation and further explained that since the property is not occupied at this time there is no actual violation; however, Town Attorney Furgiuele requested that the ordinance be adopted in order to empower him to take legal action if the building were to be occupied before the violations are corrected. Ms. Donna McKinney, owner of the property, explained that she is trying to employ contractors to correct the code violations and that she expected it would be at least six months before completion. Town Attorney Furgiuele reiterated that no penalties are being assessed since the building is unoccupied and that Ms. McKinney can rent the property once again once the violations are corrected. On a motion by Council member Brantz, seconded by Council member Spann, Council moved to adopt the following ordinance:

ORDINANCE # 06-10

WHEREAS, the Town of Boone has duly adopted a Minimum Housing Code, (hereinafter, “the Code”), pursuant to N.C. Gen. Stat. § 160A-441, *et seq.*; and

WHEREAS, on or about October 13, 2005, a resident of rental property located at 1315 Poplar Grove Road, Boone, North Carolina (hereinafter, “the property”) filed a complaint with the Town’s Development Services Department (hereinafter, “the Department”), alleging a number of substandard conditions and minimum housing code violations relating to the property;

WHEREAS, in response to that complaint, on or about October 20, 2005, two building inspectors employed by the Town of Boone inspected the property and confirmed a number of conditions on the property which violate the Code; and

WHEREAS, on November 9, 2005, the Department directed a letter to Donna McKinney (a/k/a Donna White), the owner of the property and complainant’s landlord, hereinafter, “the owner/landlord,” at the address provided by the landlord to the complainant, advising the owner/landlord of the violations of the Code which had been confirmed, and notifying her of a hearing on November 29, 2005, to be conducted by the Department, to give her an opportunity to respond to the findings; and

WHEREAS, said letter was returned to the Department, marked as “Not Deliverable as Addressed and Unable to Forward;” and

WHEREAS, on November 23, 2005, the Department directed a second letter to the owner/landlord at an address obtained from the Watauga County Tax Office, once more attempting to advise the owner/landlord of the violations and of a rescheduled hearing, now set for December 12, 2005, which second letter was returned unclaimed; and

WHEREAS, on January 12, 2006, the Department placed an advertisement in the Watauga Democrat, a newspaper of general circulation in Watauga County, North Carolina, announcing a second rescheduling of the hearing, for January 30, 2006; and

WHEREAS, on January 13, 2006, an individual identifying himself as “William Chambers” contacted the Department and identified himself as the property manager for the owner/landlord with respect to the property; and

WHEREAS, on January 18, 2006, the Building Inspector met with William Chambers on the property and provided him with a copy of the complaint and notice of hearing; and

WHEREAS, on January 30, 2006, a hearing was conducted at the Department by building inspector Todd Miller, attended by William Chambers; and

WHEREAS, on February 9, 2006, an Order to Repair, requiring repairs to be completed on or before May 9, 2006, was served by hand delivery upon William Chambers, and a copy of the was order sent to the owner/landlord at the address on file with the Watauga County Tax Administrator; and

WHEREAS, with the exception of the installation of a direct vent heater, the needed repairs were not undertaken or completed prior to the expiration of the deadline; and

WHEREAS, on June 13, 2006, the Building Inspector directed a final notice of the order to repair to the owner/landlord advising her that if the permits needed to undertake the repairs required to comply with the Code were not obtained by her or her agents on or before June 28, 2006, he would seek a declaration from the Boone Town Council that the property was “Unfit for Human Habitation” and the tenant would be ordered to vacate the premises; and

WHEREAS, the repairs needed for compliance with the Code were not undertaken before this deadline and no permits were applied for or obtained; and

WHEREAS, despite the fact that the owner/landlord was advised of her right to appeal the findings and decision of the Department to the Minimum Housing Appeals Board, the owner/landlord filed no appeal to the findings and orders of the building inspector, and her right to appeal has now expired; and

WHEREAS, the property is in violation of the Code in the following respects:

1. The floor system is structurally unsound, in violation of Code § 151.19(G)(1), due to a rotted sill plate, causing the floor to slope and the walls to settle out of plumb;
2. The roof system leaks, in violation of Code § 151.19(C)(6), causing insect infestation and formation of mold;
3. The roof is unventilated, in violation of Code § 151.19(C)(4);
4. The chimney is leaning away from the structure, in violation of Code § 151.15(B), causing water infiltration and damage;
5. The kitchen sink does not meet the standards of Code § 151.26(I);
6. There are water closet leaks and improper support of plumbing, in violation of Code § 151.26(D);
7. The electrical circuit breaker panel is not installed in accordance with the National Electrical Code, and because its cover is not secured, there are exposed live wires and conductive surfaces, in violation of Code § 151.27(A); and

WHEREAS, each day the property remains in violation of the Code after it is declared unfit for human habitation, pursuant to Code § 151.54(B), the owner/landlord is subject to a daily civil penalty of \$100.00, plus court costs and attorney’s fees; and

WHEREAS, the Code § 151.54(B) prohibits the owner/landlord from receiving any rental payments after it is declared unfit for human habitation; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BOONE, NORTH CAROLINA, PURSUANT TO N.C. GEN. STAT. § 160A-441, *ET SEQ.* AND MUNICIPAL CODE §§ 151.49 AND 151.99, that Donna McKinney (a/k/a Donna White), has failed to comply with the lawful order of the building inspector for the Town of Boone to repair rental premises. The rental premises located at 1315 Poplar Grove Road, Boone, North Carolina are hereby declared as unfit for human habitation, as that phrase is defined in the Town’s Minimum Housing Code and North Carolina State Law. The Building Inspector shall take all steps necessary to implement this declaration.

Should same be necessary, the Town Attorney is ordered to initiate a legal action in the General Court of Justice in Watauga County, North Carolina against Donna McKinney (a/k/a Donna White), seeking to enforce the aforementioned repair orders of the building inspector, and to collect any civil penalties accrued as of the date of judgment, along with attorney’s fees and costs, and a forfeiture of any rents illegally collected from Donna McKinney (a/k/a Donna White).

This Ordinance shall be recorded in the registry of the Watauga County Register of Deeds under the name Donna McKinney (a/k/a Donna White).

Adopted this 20th day of July, 2006.

Mayor

Attest:

Town Clerk

(ORDINANCE TO BE TYPED IN BOOK 3, PAGES 310-312)

VOTE: Aye-All
Nay-None

APPROVAL OF REVISED AMENDMENT #1 - HOWARD STREET STREETSCAPE PROJECT

Town Manager Greg Young explained that New River Light & Power has requested a change in the Howard Street design. Town Manager Young said by redesigning the electrical portion of Howard Street, at a cost of \$19,975, the Town will save over a quarter million dollars in installation costs. On a motion by Council member Wilcox, seconded by Council member Mason, Council moved to adopt the following amendment #1:

Amendment No. 1 modifies the Contract for Services between The Town of Boone, North Carolina and W. K. Dickson & Co., Inc. dated August 17, 2004 for professional engineering services related to the 95% Construction Drawings. The purpose of Amendment No. 1 is to adjust the compensation to the Engineers to reflect additional work.

The additional work includes professional services related to coordination with New River Light & Power (NRL&P) and revision of the 95% Construction Drawings to reflect proposed improvements from NRL&P.

ATTACHMENT B - BASIS OF COMPENSATION

Paragraph 1 - Basic Services: The fee the OWNER shall pay the CONSULTANT for services set forth in Attachment B, Basis of Compensation shall be changed as follows:

- 2) *Construction Drawings for Improvements to 95%: Compensation for this task shall be increased from \$75,650.00 (Not-to-Exceed) to a total of \$95,625.00 (Not-to-Exceed) based on the terms shown below:*
 - a. *Survey (Revised Easement Maps & Metes and Bounds) Revisions due to NRL&P: \$5,400.00*
 - b. *Revisions Due to the Proposed Deck at the Old Coffey's Restaurant: \$450.00*
 - c. *Civil / Landscape Architecture Revisions due to NRL&P: \$7,875.00*
 - d. *Electrical (Lighting) Revisions due to NRL&P: \$2,475.00*
 - e. *Electrical Estimate (from NRL&P) Review: \$900.00*
 - f. *Quality Control: \$625.00*
 - g. *Project Management: \$2,250.00*

Mayor Clawson declared a break at 8:27 p.m. Council reconvened at 8:39 p.m.

STATUS REPORT FROM THE WHEEL LOCK COMMITTEE

Mr. Jon Tate of LMS Security appeared before Council to report on the wheel lock committee. Mr. Tate said the committee consists of Eleanor Cook, Roland Hamner of the DBDA, Rick Jacobs, Daniel Cook and Betty Hamner. Mr. Tate indicated the committee has not formally met yet; however, he has spoken with each committee member via phone. Mr. Tate explained that he

has made a few changes, such as providing additional signage at the King Street and Mellow Mushroom lots and changing the wording on his cash receipts. Mr. Tate said everyone on the committee feels the Town should provide more signage to indicate where public parking is located and that the sign on Murphy's wall should be removed because it is confusing to patrons of the Wildflower lot. Council members discussed at length the number of complaints they have received regarding booting. Mr. Tate indicated he was unaware of any complaints and that he would like to receive copies of complaints in the future. Mr. Tate said that property owners in the downtown area feel the Town should provide more public parking. Council member Mason responded that the Town provides plenty of public parking, but getting the public to use the free parking is a problem. After a lengthy discussion, Council agreed to monitor the booting situation for another month, hoping that the letters and complaints will decrease in that time. Mr. Tate said he would report to Council at the August meeting.

TRANSPORTATION COMMITTEE RECOMMENDATIONS

Public Services Director Blake Brown said the Transportation Committee had recommended that the following three individuals be appointed to the Transportation Committee:

1. Kip Turner, NC Department of Transportation
2. Craig Hughes, High Country Council of Governments
3. Mike O'Connor - ASU Physical Plant Engineer

On a motion by Council member Mason, seconded by Council member Spann, Council moved to appoint the above individuals to the Transportation Committee.

VOTE: Aye-All

Nay-None

ADOPTION OF DBDA ROSTER

Council members discussed at length whether or not they should actually appoint the DBDA members. On a motion by Council member Wilcox, seconded by Council member Brantz, Council moved to approve the 2006/2007 DBDA roster and to have the Town Attorney research the by-laws regarding appointment of that board.

VOTE: Aye-All

Nay-None

SCHEDULING OF SPECIAL MEETING FOR THE WATER STUDY COMMITTEE

Public Utilities Director Rick Miller said the water study sub-committee would like to report its progress on conservation efforts to the entire Water Study Committee. Council agreed to meet on Thursday, August 10, 2006 at 6:00 p.m.

APPROVAL OF CONTRACT - CRYPTOSPORIDIUM TESTING

Public Utilities Director Rick Miller stated this is a new test required by the EPA. Public Utilities Director Miller said the Town will not have to begin testing until October, 2007; however, there are only seven labs nationally that perform the test, so it is important to secure a contract with a laboratory at this time. On a motion by Council member Brantz, seconded by Council member Pepin, Council moved to approve the following contract:

In compliance with the specifications relating herein, the Scientific Methods Inc. offers to furnish laboratory services for - EPA Approved Cryptosporidium testing at the prices listed below for a 24 month period from the date of acceptance.

SMI further represents that during that interval the Town of Boone can purchase the services listed below on a monthly basis with no financial obligation to make any additional purchases.

Description

**Unit
Price**

EPA approved Cryptosporidium testing of a 10 L sample
employing continuous flow centrifugation and sample
concentration performed at Scientific Methods Inc. \$456

Matrix spike samples \$456

Additional slide sub-sample analysis (if required) \$110

SMI represents that it will perform and charge Town of Boone for matrix spike samples and slide sub-sample analyses only when the Town of Boone is required to do so in compliance with the Long Term 2 Enhanced Surface Water Treatment Rule.

Offering includes: shipping containers, sampling cubitainers, suitable ice pack materials, all shipping costs and electronic reporting of results to EPA. Utility employees will fill cubitainers with source water and ship back to SMI.

VOTE:Aye-All
Nay-None

PRESENTATION OF POVERTY LEVELS REPORT

Public Utilities Director Rick Miller said Council had requested at the recent budget workshops information regarding poverty levels in Boone. Public Utilities Director Miller presented a map **(permanently on file in July, 2006 Council packet)** depicting the various poverty levels throughout Town as reported by the last US census. No action was taken by Council.

AWARDING OF BID- OLD BRISTOL ROAD SEWER MAIN REPLACEMENT

Public Utilities Director Rick Miller presented the following bid tabulation:

BOONE SANITARY SEWER IMPROVEMENTS
Town of Boone, NC
Watauga, NC
Bid Opening: Thursday, May 25, 2006, 2:00 P.M. E.D.T

Contractor	Street Address	Phone Number Fax Number	Bid Bond (Yes or No)	Base Bid (\$)	Bid Alternate #1 (\$)	Total Bid #2 (4)
Carolina Grading & Utility	3677 Hwy 58 W Warrensville, NC 28693	Ph 336-384-3800 Fax 336-384-3802	Y	\$ 432,338.00	\$ 115,842.00	\$ 548,180.00
Iron Mountain Construction	601 Hospital Road Mountain City, TN 37683	Ph 423-727-4483 Fax 423-727-4800	Y	\$ 442,453.70	\$ 116,844.08	\$ 559,297.78
James R. Vannoy	1608 Hwy 221 N Jefferson, NC 28640	Ph 336-846-7191 Fax 336-846-7112	Y	\$ 574,727.00	\$ 190,783.00	\$ 765,510.00

Public Utilities Director Miller said Hobbs, Upchurch & Associates recommended that Council award the bid to Carolina Grading and Utilities. On a motion by Council member Pepin, seconded by Council member Brantz, Council moved to award the bid for the Old Bristol Road sewer main replacement to Carolina Grading and Utilities in the amount of \$432,338.

VOTE:Aye-All
Nay-None

MONTHLY WATER USE STATUS REPORT

Public Utilities Director Rick Miller presented the following monthly water use status report:

As requested by Town Council, staff and I have compiled the following information concerning water use for the month of June. The Water Treatment Plant recorded a maximum daily demand of 2.025 million gallons on Friday, June 23, 2006. The average daily demand was 1.702 million gallons for the entire month. If all allocated projects were online and utilizing the amounts of water calculated, the total for the month would be 2.305million gallons for the maximum daily demand and 1.982 million gallons for the average daily demand.

Attached you will find a chart that depicts a comparison of the maximum daily demands for the month of June since 1995. Included is an average trend line that illustrates the extent the maximum daily demand has increased during the last twelve years. Also, I have attached an additional tracking chart that compares our water usage with past months and years for your use.

As adopted in Ordinance 05-01, the Town of Boone Council has appropriated for 25,000 gallons per day usage for year 2006 for allocation to customers. Council chose to allocate 16,441 gallons from 2006 leaving a balance of 8,559 gallons for allocation. Eight previously approved allocations did not contact us within the one year period and did not acquire all necessary permits as required in Ordinance 05-01, plus one project was denied an extension of their allocation. These water allocations totaled 21,965 gallons per day and combined with the 2006 balance, created a total of 30,752 gallons per day that can be allocated for use in 2006.The total water allotment remaining for the year 2006 has not broken the sixty percent threshold. All future water service requests in excess of 3000 gallons per day usage will be forwarded to Town Council as required in Ordinance 05-01. Since the last Town Council Meeting, the Utilities Department has approved three projects that subtracted 1,625 gallons per day from the 2006 allotment.

As you can see in the attached “Approved Water Connections” chart, the Public Utilities Department now has 13,660 gallons per day remaining for allotment in 2006. Also, be reminded that all calculations are based on 60% of the North Carolina Discharge Rate Schedule.

			Approved Water Connections			
			2006			
Staff Approved	Date	Projected Usage	Council Approved	Date	Projected Usage	Remaining Gallons
						25000
		4165	John Cook	May-05	8038	16962
			CataCorner Investments	Jul-05	7296	9666
			CAT Tractor	Oct-05	1107	8559
			2005 Balance Carry Over	Jan-06	228	8787
**Relinquished		Previously	Approved Allocations	Feb-06	16965	25752
Bob Young	Feb-06	450				25302
Sarvos Properties	Feb-06	2100				23202
William Klein	Feb-06	540				22662
Andy Garrett	Feb-06	90				22572
Charles Ulerey	Feb-06	2985				19587

Eric Woolridge	Feb-06	540				19047
Ray Howell	Feb-06	104				18943
			Lynhill Daycare	Mar-06	693	18250
Gene Jensen	Mar-06	180				18070
BREMCO	Mar-06	15				18055
Mels Diner	Mar-06	360				17695
Raymond Verling	Mar-06	430				17265
Jeff Nichols	Mar-06	180				17085
			VIA LLC/Ed Street Co.	Apr-05	5000	22085
ECR Software	Apr-06	81				22004
S&T Enterprises	Apr-06	360				21644
			CC Bear Development	Apr-06	6344	15300
Watauga County	Apr-06	15				15285
TOB ABC Store	May-06	62				15223
A-Z Enterprises	May-06	45				15178
Boone Mall	May-06	1518				13660

APPROVAL OF BUDGET AMENDMENTS

Finance Director Amy Davis presented the following budget amendments:

DESCRIPTION	ACCOUNT #	TO:	FROM:
C/O Office Equipment-Finance	010-402-000-571000	\$1,920.00	
Misc. Supplies-Jones House	010-409-000-519900	\$783.00	
Maint.-Landscaping-Jones House	010-409-000-525111	\$479.00	
C/O Other Improvements-Jones House	010-409-000-574001	\$4,027.00	
C/O Other Improvements-Jones House	010-409-000-574001	\$1,600.00	
C/O Other Improvements-Jones House	010-409-000-574001	\$3,466.00	
C/O Other Improvements-Jones House	010-409-000-574001	\$28,660.00	
ATP/Greenway-Special Projects	010-411-000-545100	\$394,160.00	
Wide Area Network-Special Projects	010-411-000-549102	\$499.00	
Stormwater Assessment-Special Projects	010-411-000-549109	\$90,612.00	
Horn in the West-Special Projects	010-411-000-549122	\$255,694.00	

Ann Marie/Elizabeth Drive-Special Projects	010-411-000-549123	\$50,000.00	
Howard Street-Special Projects	010-411-000-549124	\$150,000.00	
Space Needs Analysis-Special Projects	010-411-000-549125	\$15,000.00	
Contracted Services-GIS	010-414-000-577000	\$33,750.00	
Armory Supplies-Police Dept.	010-500-300-519200	\$1,988.00	
Maint.-Vehicles-Police Dept.	010-500-300-525301	\$2,500.00	
Uniform Equipment-Fire Dept.	010-500-350-511201	\$3,900.00	
Maint.-Buildings-Fire Department	010-500-350-525101	\$687.00	
Maint.-Buildings-Fire Department	010-500-350-525101	\$9,090.00	
Maint.-Equipment-Fire Department	010-500-350-525201	\$900.00	
Professional Services-Development Services	010-500-360-509100	\$10,611.00	
C/O Office Equipment-Public Works	010-600-400-571000	\$3,788.00	
C/O Office Equipment-Public Works	010-600-400-571000	\$5,800.00	
Contracted Services-Public Works	010-600-400-577000	\$23,300.00	
C/O Traffic Signal Meadowview-Street Department	010-600-401-574003	\$64,397.00	
C/O Oak Street Project-Street Department	010-600-401-574802	\$119,131.00	
Community Appearance-Facilities Maintenance	010-600-405-525102	\$4,109.00	
Contracted Services-E-911	011-500-302-577000	\$2,520.00	
C/O Office Equipment-Public Utilities	030-700-801-571000	\$3,788.00	
C/O Lines-Water Operations	030-700-802-575000	\$50,000.00	
C/O Lines-Sewer Operations	030-700-803-575000	\$18,905.00	
C/O Lines-Sewer Operations	030-700-803-575000	\$38,520.00	
C/O Lines-Sewer Operations	030-700-803-575000	\$147,500.00	
Raw Water Supply Study-WTP	030-700-804-578000	\$2,794.00	
Maint.-Equipment-WWTP	030-700-805-525201	\$5,500.00	
C/O Other Equipment-WWTP	030-700-805-574000	\$225,000.00	
NC DOT/Alternative Trans.	010-000-000-448025		\$286,800.00
Appropriated Fund Balance-GF	010-000-000-499900		\$994,051.00
Appropriated Fund Balance-E911	011-500-000-499900		\$2,520.00
Appropriated Fund Balance-W&S	030-000-000-499900		\$492,007.00

Office Equipment-Development Services	010-500-360-516200	\$4,905.00	
Appropriated Fund Balance-GF	010-000-000-499900		\$4,905.00

On a motion by Council member Brantz, seconded by Council member Mason, Council moved to adopt the budget amendments as presented.

VOTE:Aye-All
Nay-None

REQUESTED APPEARANCE - MATTHEW COOPER

Mr. Matthew Cooper from the Appalachian Community for Sustainability appeared before Council to discuss proposed amendments to the community garden lease. Mr. Cooper first requested that the \$2,000,000 insurance requirement be lowered to \$1,000,000. Council member Brantz asked if the Town typically requires \$2,000,000 insurance. Town Manager Greg Young said yes, that it is required on most property leases but that Council can set any limit it desires. After little discussion on a motion by Council member Brantz, seconded by Council member Mason, Council moved to amend the lease to require \$1,000,000 in insurance per occurrence.

VOTE:Aye-All
Nay-None

Mr. Cooper reported that he originally planned to sub-lease the garden spaces for a fee, but after talking with the Town Manager, has decided to accept donations for spaces provided. Town Attorney Sam Furgiuele agreed that sub-leases should not be allowed for the garden spaces, but that Council could authorize that useage fees be accepted for garden spaces. After little discussion, on a motion by Council member Mason, seconded by Council member Spann, Council moved to amend the lease to allow for usage fees.

VOTE:Aye-All
Nay-None

Mr. Cooper then asked if the community garden area has been rezoned to allow for a greenhouse. Senior Planner Jane Shook responded that a text amendment, allowing for a community garden in a B-3 zone, will be on the August quarterly public hearing agenda. Ms. Shook pointed out that the majority of the property is in a flood-hazard zone and that she is unsure that a greenhouse can be located on the property. Public Utilities Director Rick Miller said a sewer outfall also crosses the property and that the line can not be built upon. Council member Mason questioned the location of the proposed greenway extension. Senior Planner Shook said sidewalks will be located on the property fronting Pride and Leola Streets. After some discussion, on a motion by Council member Mason, seconded by Council member Spann, Council moved to have staff discuss with Mr. Cooper the possibility of locating a greenhouse on the property.

VOTE:Aye-All
Nay-None

REQUESTED APPEARANCE - DOWNTOWN BOONE DEVELOPMENT ASSOCIATION

Ms. Tuesdae Rice, Director of the Downtown Boone Development Association, appeared before Council to request that public events sponsored by the DBDA be exempt from Section 130.02 of the Town Code. This exemption would allow alcohol and/or unfortified wine to be served at DBDA- sponsored events. Ms. Rice specifically requested this exemption for the upcoming Kraut Creek Festival, which is held on Howard Street. Ms. Rice indicted that local wine vendors had expressed an interest in providing tastings, along with wine for sale. Ms. Rice said she was aware that additional law enforcement would be needed at the festival if alcohol is allowed. Mayor Clawson said the exemption that allowed alcohol at the Horn-in-the-West property was for a one-year period and that the Horn no longer allows alcohol at events held at that property. Mayor Clawson also pointed out that the Jones House exemption is different in that it is a

building for rent to private events. After a lengthy discussion regarding the nature of the Kraut Creek festival and the pros and cons of allowing alcohol, Council member Pepin made a motion to deny the request. Council member Brantz seconded.

VOTE:Aye-All
Nay-None

REQUESTED APPEARANCE - JP CARLIN FOR TIPSY TAXI

Mr. J.P. Carlin appeared before Council to request approval of a new taxi service called Tippy Taxi. Mr. Carlin said he, along with two other ASU graduates, plan to offer a new taxi service mainly catering to ASU students during the hours of 9:00 p.m to 3:00 a.m. Mr. Carlin said all drivers will undergo extensive training and will be approved by the Police Department before hire. After some discussion about Mr. Carlin's business plans, Council member Wilcox made a motion to approve the taxi business. Council member Mason seconded.

VOTE:Aye-All
Nay-None

REQUESTED APPEARANCE - JOSHUA NATHAN SIMMONS

Mr. Joshua Nathan Simmons appeared before Council to request transfer of the Boone Taxi business to Afterparty, Inc. A memorandum was included in the packet from Captain William Greene of the Boone Police Department that referenced several violations of the Town Code made by operators and/or drivers for Boone Taxi. Council questioned Mr. Simmons on several operational questions, such as hours for his business and the number of drivers. Council member Mason asked Town Attorney Sam Furguele if Afterparty, Inc. meets the requirements of the Town Code that must be met in order to run a taxi business. Town Attorney Furguele responded that it is impossible for the Town to check compliance of everyone that is listed in a corporation. Town Attorney Furguele said as long as the Chief Executive Office of the corporation meets the code requirements, then a taxi permit may be issued. Council member Mason then questioned how often background checks are performed on the drivers/owner and/or operator. Town Attorney Furguele said if Afterparty, Inc. is issued a taxi business and a person is driving a taxi without the proper background checks from the Police Department Afterparty, Inc. d/b/a Boone Taxi will be considered a habitual violator. On a motion by Council member Mason, seconded by Council member Brantz, Council moved to grant the transfer of the Boone Taxi business to Afterparty, Inc., with the stipulation that if another violation is issued to Boone Taxi drivers/owners and/or operators, the taxi business will be placed on a Town Council agenda for further review.

VOTE:Aye-3 (Brantz, Mason, Wilcox)
Nay-2 (Pepin, Spann)

REQUESTED APPEARANCE - CATACORNER INVESTMENTS INC.

Town Attorney Sam Furguele opened a public hearing at 10:38 p.m. to hear sworn testimony from Jeff Collins and Greg Parsons concerning a request for water re-allocation to property located off Hwy. 105. Mr. Jeff Collins of Catacorner Investments explained that the property is currently under contract with Ashok Patel, who is seeking a hotel franchise for the property. Once a franchise is received, Mr. Collins said that company representatives will then pursue the CU B-3 zoning. Mr. Collins requested that the water allocation of 7,296 gpd be extended until February 15, 2008. Town Attorney Sam Furguele explained that once the non-refundable availability fees are paid, water rights may be extended for one additional year. Mr. Collins questioned if he must pay the \$40,128 availability fees before the water allocation can be extended. Town Attorney Furguele said yes. Mr. Greg Parsons of Catacorner Investments pointed out that company officials have run into various obstacles regarding this project, but think a hotel will be a good fit for the property. Council member Wilcox asked the Town Attorney if Council has any flexibility regarding the re-allocation of water. Town Attorney Furguele responded that in order to grant the re-allocation of water for one additional year, the non-refundable availability fees must be paid. Town Attorney Furguele pointed out if Catacorner Investments officials had development permits in hand, they could have requested that the water re-allocation coincide with those permits. Mr. Collins interjected that if the water

allocation is lost, Catacorner Investments is in danger of losing the developer and that Catacorner does not want to invest \$40,000 in a non-refundable fee just in case the project does not come to fruition. After very little discussion, Mr. Collins and Mr. Parsons withdrew their request for water re-allocation. Town Attorney Furgiuele closed the public hearing at 11:00 p.m.

REQUESTED APPEARANCE - LAURA SHRAKE

Town Attorney Sam Furgiuele opened the public hearing at 11:00 p.m. to hear sworn testimony from Laura Shrake, Graydon Eggers and Public Utilities Director Rick Miller concerning a water and sewer request to property located off Knollwood Drive. Ms. Laura Shrake explained that her father developed the property off Knollwood Drive in the late 1960's and that there are three lots remaining in the subdivision. Ms. Shrake said that the subdivision has been served with Town sewer since development of the lots and that the lines and manholes are already in place. Council member Wilcox asked if this would be a sewer extension or a tap. Public Utilities Director Rick Miller said it would be a tap for the sewer and an extension for the water and that the sewer taps would have no adverse effect on the current system. Graydon Eggers testified that Ms. Shrake must have either septic tank approval or Town sewer approval before she can receive final plat approval of a minor subdivision of those three lots. Council member Mason questioned if the property is located in the ETJ. Public Utilities Director Miller said yes. There being no further testimony, the public hearing closed at 11:12 p.m. On a motion by Council member Wilcox, seconded by Council member Mason, Council moved to deny the water request to the property.

VOTE:Aye-All
Nay-None

On a motion by Council member Wilcox, seconded by Council member Pepin, Council moved to grant the sewer request to the property.

VOTE:Aye-All
Nay-None

PUBLIC COMMENT

There were no public comments at this meeting.

CLOSED SESSION

On a motion by Council member Wilcox, seconded by Council member Mason, Council moved to enter Closed Session at 11:13 p.m., pursuant to NCGS 143-318.11a)3)5) in order to discuss ASU violations, advice regarding the open-meetings law, and property acquisition.

VOTE:Aye-All
Nay-None

On a motion by Council member Wilcox, seconded by Council member Brantz, Council moved to exit Closed Session at 12:09 a.m.

VOTE:Aye-All
Nay-None

ADJOURNMENT

On a motion by Council member Spann, seconded by Council member Wilcox, Council moved to adjourn at 12:10 a.m.

VOTE:Aye-All
Nay-None

Town Clerk

Mayor